



PTO/SB/82 (09-04)

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**REVOCATION OF POWER OF  
ATTORNEY WITH  
NEW POWER OF ATTORNEY  
AND  
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	10/606,028
Filing Date	06/25/2003
First Named Inventor	James Chong, et al.
Art Unit	2154
Examiner Name	unknown
Attorney Docket Number	RO288-00010 0552 US2

I hereby revoke all previous powers of attorney given in the above-identified application.

A Power of Attorney is submitted herewith.

**BEST AVAILABLE COPY**

**OR**

I hereby appoint the practitioners associated with the Customer Number:

47069

Please change the correspondence address for the above-identified application to:

The address associated with  
Customer Number:

24033

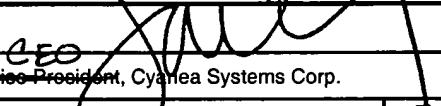
**OR**

<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone	Fax		

I am the:

- Applicant/Inventor.  
 Assignee of record of the entire interest. See 37 CFR 3.71.  
 Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

**SIGNATURE of Applicant or Assignee of Record**

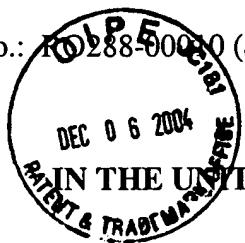
Signature			
Name	James Chong, Vice President, Cyansea Systems Corp.		
Date	December 2, 2004	Telephone	510-587-7088

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

\*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



First Named Inventor: James Chong, et al. Assignee: Cyanea Systems Corp  
Application No.: 10/606,028 Customer No.:  
Confirmation No.: 3949 Group Art Unit: 2154  
Filing Date: 06/25/2003 Examiner: unknown  
Title Method and System for Monitoring Performance of Applications in a Distributed Environment

**CERTIFICATE UNDER 37 C.F.R. §3.73(b)**

Cyanea Systems Corporation, a corporation organized and existing under the laws of the State of California, having a place of business at **2001 BROADWAY 3<sup>RD</sup> FLOOR, OAKLAND, CA 94612(US)**, certifies that it is the assignee of the entire right, title, and interest in the patent application identified above by virtue of:

An assignment from the inventors, James Chong, Joseph Chan, Tushar Patel, Jean-Jacques Heler, Chi Hong So, Arthur Tsang, Robert Lam, to Cyanea Systems Corporation, of the patent application identified above. The assignment was recorded in the U.S. Patent and Trademark office on 11/17/2003, at Reel/Frame 014133/0927 (copy attached). An assignment was filed from the inventor Henry Tang to Cyanea Systems Corporation, of the patent application identified above. The assignment was recorded in the U.S. Patent and Trademark office on 10/29/2004, at Reel/Frame 015317/0649 (copy attached). Three inventors, Raymond Chow, Jerome Banks and Christopher Zychowski, have refused to sign numerous times, but were obligated to sign by an employment agreement (copies attached). This accounts for all of the inventors on this application.

Cyanea Systems Corporation owns 100% interest in the above-identified patent application.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements

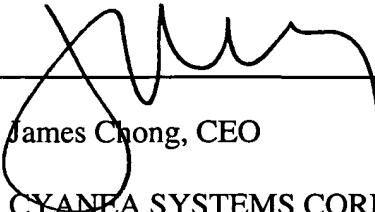
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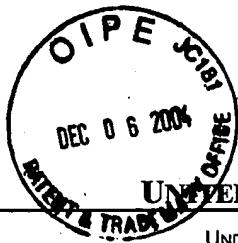
are made with the knowledge that willful false statements, as the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 12/2/04

By: 

James Chong, CEO

CYANEA SYSTEMS CORP., 2001 BROADWAY  
3<sup>RD</sup> FLOOR, OAKLAND, CA 94612(US)



DEC 12 4

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOVEMBER 28, 2003

PTAS

DUANE MORRIS LLP  
ROBERT E. ROSENTHAL, ESQ.  
4200 ONE LIBERTY PLACE  
PHILADELPHIA, PA 19103-7396

*CORRECTED  
NOTICE*

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**DOCKETED**

UNITED STATES PATENT AND TRADEMARK OFFICE  
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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 11/17/2003

REEL/FRAME: 014133/0927

NUMBER OF PAGES: 10

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

CHONG, JAMES C.

DOC DATE: 10/10/2003

ASSIGNOR:

CHAN, JOSEPH L.

DOC DATE: 10/10/2003

ASSIGNOR:

PATEL, TUSHAR M.

DOC DATE: 10/10/2003

ASSIGNOR:

HELER, JEAN-JACQUES

DOC DATE: 10/10/2003

ASSIGNOR:

SO, CHI HONG

DOC DATE: 10/10/2003

ASSIGNOR:

TSANG, ARTHUR

DOC DATE: 10/10/2003

ASSIGNOR:  
LAM, ROBERT S.

DOC DATE: 10/10/2003

014133/0927 PAGE 2

**BEST AVAILABLE COPY**

ASSIGNOR:  
BANKS, JEROME D.

DOC DATE: 10/10/2003

ASSIGNEE:  
CYANEA SYSTEMS CORP.  
2001 BROADWAY, 3RD FLOOR  
OAKLAND, CALIFORNIA 94612

SERIAL NUMBER: 10606028  
PATENT NUMBER:

FILING DATE: 06/25/2003  
ISSUE DATE:

SEDLEY PYNE, PARALEGAL  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

11/17/2003

700053038

Docket No. R0288-00010

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

- 1) James C. Chong 8) Jerome D. Banks  
 2) Joseph L. Chan  
 3) Tushar M. Patel  
 4) Jean-Jacques Heler  
 5) Chi Hong So  
 6) Arthur Tsang  
 7) Robert S. Lam

Additional name(s) of conveying party(ies) attached?  Yes  No

## 3. Nature of conveyance:

- Assignment  Merger  
 Security Agreement  Change of Name  
 Other

Execution Date: October 10, 2003

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s) 10/605,028

B. Patent No.(s)

Additional numbers attached:  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Robert E. Rosenthal, Esq.

Internal Address:

Street Address: Duane Morris LLP

4200 One Liberty Place

City: Philadelphia State: PA ZIP: 19103-7396

## 6. Total number of applications and patents involved: (1) One

7. Total fee (37 CFR 3.41) \$40.00

 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

04-1679

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Name of Person Signing: Robert E. Rosenthal

Signature  Date Nov. 17, 2003

Total number of pages including cover sheet, attachments, and document: 10

Mail or Fax (Assignment Branch) documents to be recorded with required cover sheet information to: Commissioner of Patents and Trademarks, Box Assignments

PATENT

OUR FILE: R0288-00010

ASSIGNMENT

We, James C. Chong, Joseph L. Chan, Tushar M. Patel, Jean-Jacques Heler, Chi Hong So, Arthur Tsang, Robert S. Lam, Raymond Chow, Jerome D. Banks, Christopher M. Zychowski, and Henry Tang, hereby declare that we are the inventors of the inventions relating to METHOD AND SYSTEM FOR MONITORING PERFORMANCE OF APPLICATIONS IN A DISTRIBUTED ENVIRONMENT described in a non-provisional patent application for Letters Patent of the United States of America, filed in the United States Patent and Trademark Office on June 25, 2003 under Application No. 10/606,028.

For valuable consideration received, we hereby sell, assign, and transfer to Cyanea Systems Corp., a California corporation, with its principal place of business located at 2001 Broadway, 3<sup>rd</sup> Floor, Oakland, California, 94612, its successors, and assigns, our entire right, title, and interest, for all countries in and to said inventions, and all the rights and privileges under any and all applications and Letters Patents that may be granted therefor, including said application and any subsequent application claiming priority therefrom, and any divisions, continuations, reissues, and extensions thereof.

We agree that, when requested, we will, without charge to said Corporation but at its expense, sign all papers, take all rightful oaths, make all rightful declarations, and do all acts which may be necessary, desirable or convenient for securing and maintaining patents or other forms of protection for said inventions in any and all countries, and for vesting title thereto in said Corporation, its successors, assigns or nominees.

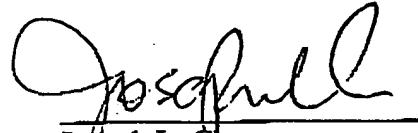
We agree that we will communicate to said Corporation or its representatives any facts known to us respecting said inventions and, when requested by said Corporation and at its expense, will testify in any legal proceedings, and generally do everything possible to aid said Corporation, its successors, assigns, and legal representatives or nominees, to obtain or enforce proper protection for said inventions in any and all countries.

We authorize and empower said Corporation, its successors, assigns or nominees, to make application for patent or other form of protection for said inventions in its or their own name, or in our names, in any and all countries, and to invoke and claim for any application for patent or other form of protection for said inventions filed by it or them, the benefit of the right or priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for it, and to invoke and claim such right of priority without further written or oral authorization from us.

We hereby consent that a copy of this Assignment shall be deemed a full, legal, and formal equivalent of any Assignment, consent to file or like document, which may be required in any country for any purpose, and more particularly, in proof of the right of the said Corporation or its successors, assigns or nominees to apply for patent or other proper protection for said inventions, and to claim the aforesaid benefits of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for it.

We covenant with said Corporation, its successors, assigns, legal representatives, and nominees, that to the best of our knowledge the right, title, and interest herein conveyed by us, is free and clear of any incumbrance, and that we have full right to convey the same as herein expressed.

IN WITNESS WHEREOF, we have hereunto set our hand and seal.

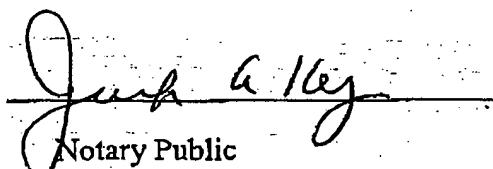


Joseph L. Chan

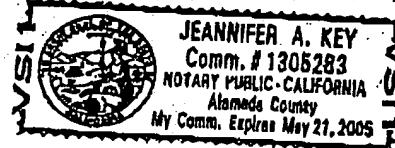
STATE OF CALIFORNIA

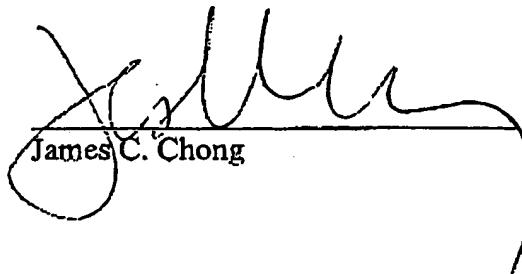
COUNTY of Alameda

On this 16th day of October 2003, before me personally came the above Joseph L. Chan to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.



Notary Public

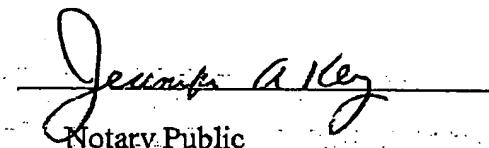
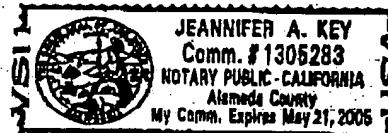


  
James C. Chong

STATE OF CALIFORNIA

COUNTY of Alameda

On this 14 day of October 2003, before me personally came the above James C. Chong to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.

  
Jeannifer A. Key  
Notary Public

Tushar Patel  
Tushar M. Patel

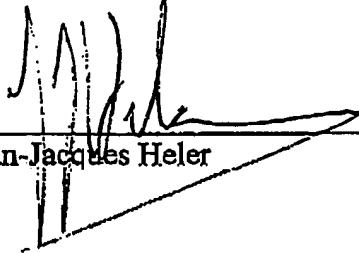
STATE OF CALIFORNIA

COUNTY of Alameda

On this 15 day of October, 2003, before me personally came the above Tushar M. Patel to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therin set forth.

Jennifer A. Key  
Notary Public



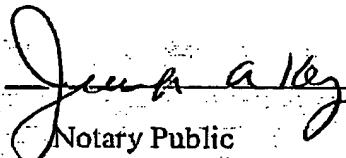


Jean-Jacques Heler

STATE OF CALIFORNIA

COUNTY of Alameda

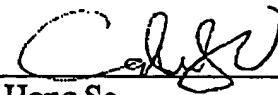
On this 10th day of October 2003, before me personally came the above Jean-Jacques Heler to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.



Jennifer A. Key

Notary Public

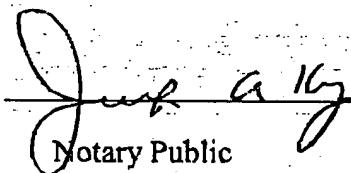
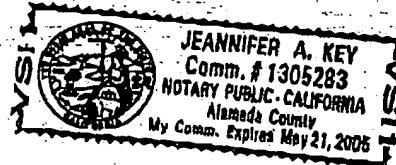


  
Chi Hong So

STATE OF CALIFORNIA

COUNTY of Alameda

On this 10 day of October 2003, before me personally came the above Chi Hong So to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.

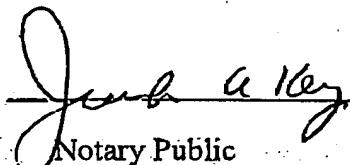
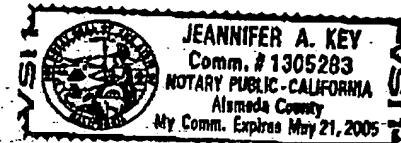
  
Jennifer A. Key  
Notary Public

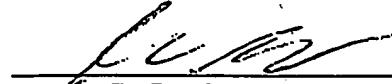
  
Arthur Tsang

STATE OF CALIFORNIA

COUNTY of Alameda

On this 10<sup>th</sup> day of October 2003, before me personally came the above Arthur Tsang to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.

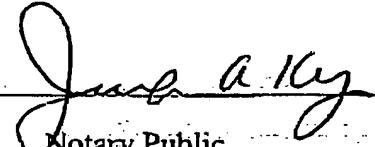
  
\_\_\_\_\_  
Notary Public

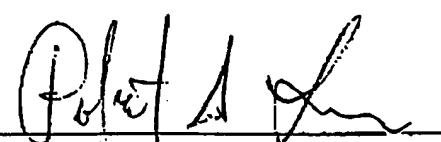
  
\_\_\_\_\_  
Jerome D. Banks

STATE OF CALIFORNIA

COUNTY of Alameda

On this 10 day of October 2003, before me personally came the above Jerome D. Banks to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.

  
\_\_\_\_\_  
Notary Public

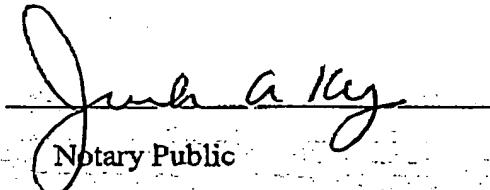


Robert S. Lam

STATE OF CALIFORNIA

COUNTY of Alameda

On this 10 day of October 2003, before me personally came the above-named Robert S. Lam to me personally known and known to me to be the same individual who executed the foregoing assignment, and who acknowledged to me that he executed the same of his own free will for the use and purposes therein set forth.



Jennifer A. Key  
Notary Public





**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**ASSISTANT SECRETARY AND COMMISSIONER**  
**OF PATENTS AND TRADEMARKS**  
**Washington, D.C. 20231**



NOVEMBER 10, 2004

PTAS

\*500011510A\*

IBM CORPORATION  
 555 BAILEY AVE, IPIAW, G4  
 SAN JOSE, CA 95141

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RECORDATION DATE: 11/10/2004

REEL/FRAME: 015349/0336

NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

TANG, HENRY

DOC DATE: 09/11/2004

ASSIGNEE:

CYANEA SYSTEMS CORPORATION  
 2001 BROADWAY, 3RD FLOOR  
 OAKLAND, CALIFORNIA 94612

SERIAL NUMBER: 10606028

FILING DATE: 06/25/2003

PATENT NUMBER:

ISSUE DATE:

TITLE: METHOD AND SYSTEM FOR MONITORING PERFORMANCE OF APPLICATIONS IN A DISTRIBUTED ENVIRONMENT

015349/0336 PAGE 2

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ASSIGNMENT DIVISION  
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 Stylesheet Version v1.1

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NATURE OF CONVEYANCE:	ASSIGNMENT										
<b>CONVEYING PARTY DATA</b>											
<table border="1"> <tr> <td>Name</td> <td>Execution Date</td> </tr> <tr> <td>Henry Tang</td> <td>09/11/2004</td> </tr> </table>		Name	Execution Date	Henry Tang	09/11/2004						
Name	Execution Date										
Henry Tang	09/11/2004										
<b>RECEIVING PARTY DATA</b>											
<table border="1"> <tr> <td>Name:</td> <td>Cyanea Systems Corporation</td> </tr> <tr> <td>Street Address:</td> <td>2001 Broadway, 3rd Floor</td> </tr> <tr> <td>City:</td> <td>Oakland</td> </tr> <tr> <td>State/Country:</td> <td>CALIFORNIA</td> </tr> <tr> <td>Postal Code:</td> <td>94612</td> </tr> </table>		Name:	Cyanea Systems Corporation	Street Address:	2001 Broadway, 3rd Floor	City:	Oakland	State/Country:	CALIFORNIA	Postal Code:	94612
Name:	Cyanea Systems Corporation										
Street Address:	2001 Broadway, 3rd Floor										
City:	Oakland										
State/Country:	CALIFORNIA										
Postal Code:	94612										
<b>PROPERTY NUMBERS Total: 1</b>											
<table border="1"> <tr> <td>Property Type</td> <td>Number</td> </tr> <tr> <td>Application Number:</td> <td>10606028</td> </tr> </table>		Property Type	Number	Application Number:	10606028						
Property Type	Number										
Application Number:	10606028										
<b>CORRESPONDENCE DATA</b>											
<p>Fax Number: (408)463-4827  <i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i></p> <p>Phone: 4084635670</p> <p>Email: nicky@us.ibm.com</p> <p>Correspondent Name: IBM Corporation</p> <p>Address Line 1: 555 Bailey Ave, IPLaw, G4</p> <p>Address Line 4: San Jose, CALIFORNIA 95141</p>											

NAME OF SUBMITTER:	Niccola J. Lambert
Signature:	/Niccola J Lambert/
Date:	11/10/2004
<b>Total Attachments: 1</b> source=Executed Assignment SVL920040552US2#page1.tif	
<b>RECEIPT INFORMATION</b>	
EPAS ID:	PAT13159
Receipt Date:	11/10/2004
Fee Amount:	\$40

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## ASSIGNMENT

Whereas I

INVENTOR/CITY  
COUNTY/STATE

(1) **Henry Tang**  
County of Contra Costa

City of Walnut Creek  
State of California

have invented certain improvements in

TITLE

**METHOD AND SYSTEM FOR MONITORING PERFORMANCE OF APPLICATIONS  
IN A DISTRIBUTED ENVIRONMENT** filed on June 25, 2003, serial number 10/606,028,

and executed, respectively, a United States patent application therefor on the following date:

DATE(S) THAT  
INVENTOR(S)  
SIGNED THE  
DECLARATION

(1) 9/11/2004

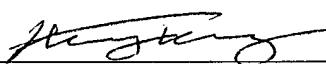
Whereas, Cyanea Systems Corporation, a California corporation, having a place of business at 2001 Broadway, 3<sup>rd</sup> Floor, Oakland, California, 94612, (hereinafter called Cyanea), desires to acquire the entire right, title and interest in the said application and invention, and to any United States and foreign patents to be obtained therefor;

Now therefore, for a valuable consideration, receipt whereof is hereby acknowledged, I, the above named, hereby sell, assign, and transfer to Cyanea, its successors and assigns, the entire right, title and interest in the said application and invention therein disclosed for the United States and foreign countries, and all rights of priority resulting from the filing of said United States application, and I request the Commissioner of Patents to issue any Letters Patent granted upon the inventions set forth in said application to Cyanea, its successors and assigns; and I hereby agree that Cyanea may apply for foreign Letters Patent on said invention and I will execute all papers necessary in connection with the United States and foreign applications when called upon to do so by Cyanea, its successors and assigns.

Signed:

CITY  
DATE

(1) at (city) WALNUT CREEK  
on (date) 9/11/2004

  
Henry Tang

## JURAT WITH AFFIANT STATEMENT

State of CALIFORNIA }  
County of ALAMEDA } ss.

- See Attached Document (Notary to cross out lines 1-8 below)  
 See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 I, William J. Hoover, hereby swear or affirm  
2 that the attached reproduction of the  
3 Confidential Information and Invention  
4 Assignment Agreement signed by Raymond  
5 Chow is a true, correct and complete  
6 photocopy of a document in my possession.

WJ Hoover  
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

Subscribed and sworn to (or affirmed) before

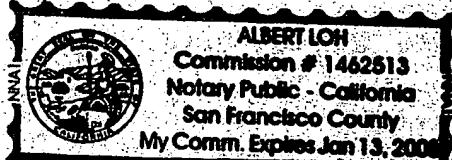
me this 22 day of SEPTEMBER,  
2004, by

(1) WILLIAM J. HOOVER  
Name of Signer(s)

(2) Raymond Chow  
Name of Signer(s)

Signature of Notary Public

Place Notary Seal Above



### OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Further Description of Any Attached Document

Title or Type of Document: CONFIDENTIALITY & ASSIGNMENT

Document Date:    Number of Pages: 10

Signer(s) Other Than Named Above: Raymond Chow

RIGHT THUMBPRINT  
OF SIGNER #1  
Top of thumb here.

RIGHT THUMBPRINT  
OF SIGNER #2  
Top of thumb here

**CYANEA SYSTEMS CORP.**

**CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT**

As a condition of my employment with Cyanea Systems Corp., its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company,

RAYMOND CHOU (employee name) agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice.

2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company to fulfill my employment obligations, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. **Inventions:**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign and shall assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protected by copyright are "works made for hire," as that term is defined in the United States Copyright Act. I shall not incorporate any invention, original work of authorship, development, concept, improvement, or trade secret owned, in whole or in part, by any third party, into any Invention without the Company's prior written permission.

(c) **Inventions Assigned to the United States.** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) **Patent and Copyright Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the

sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments**. I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I conceive, develop or reduce to practice during my employment that I believe meet the criteria in California Labor Code Section 2870 and not otherwise disclosed on Exhibit A.

4. **Conflicting Employment**. I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. **Returning Company Documents**. I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit C.

6. **Notification of New Employer**. In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees**. I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit D hereto.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration.**

(a) Except as provided in Section 10(d) below, the Company and I agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration unless otherwise required by law; to be held in [San Mateo, California] in accordance with the National Rules for the Resolution of Employment Disputes then in effect of the American Arbitration Association (the "Rules"). The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) shall apply California law to the merits of any dispute or claim, without reference to rules of conflicts of law. I hereby consent to the personal jurisdiction of the state and federal courts located in California for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

(d) I understand that nothing in section 10 modifies my at-will status. Either the Company or I can terminate the employment relationship at any time, with or without cause.

(e) I HAVE READ AND UNDERSTAND THIS SECTION 10, WHICH DISCUSSES ARBITRATION. I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE, EXCEPT AS PROVIDED IN SECTION 10(d), TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, UNLESS OTHERWISE REQUIRED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF MY RELATIONSHIP WITH THE COMPANY.

11. **General Provisions.**

(a) **Governing Law.** This Agreement will be governed by the internal substantive laws, but not the choice of law rules, of the State of California.

(b) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged.

(c) **Severability.** If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) **Successors and Assigns.** This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

CYANEA SYSTEMS CORP.

By: W.P. Chow

Title: VP-Finance & Operations

EMPLOYEE:

Raymond Chow

Name

**EXHIBIT A**

**LIST OF PRIOR INVENTIONS  
AND ORIGINAL WORKS OF AUTHORSHIP**

<b>Title</b>	<b>Date</b>	<b>Identifying Number or Brief Description</b>
--------------	-------------	--

No inventions or improvements  
 Additional Sheets Attached

Signature of Employee: \_\_\_\_\_

Print Name of Employee: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**

**CALIFORNIA LABOR CODE SECTION 2870**

**EMPLOYMENT AGREEMENTS; ASSIGNMENT OF RIGHTS**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

- (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.
- (2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

**EXHIBIT C**

**TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to the Company.

I further certify that I have complied with all the terms of the Company's Employment Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employment, Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Date: \_\_\_\_\_

---

(Employee's Signature)

---

(Type/Print Employee's Name)

## **EXHIBIT D**

### **CONFLICT OF INTEREST GUIDELINES**

It is the policy of the Company to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities, which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations, which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The Employment, Confidential Information and Invention Assignment Agreement elaborates on this principle and is a binding agreement.)
2. Accepting or offering substantial gifts, excessive entertainment, favors or payments, which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.
3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.
4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.
5. Initiating or approving any form of personal or social harassment of employees.
6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.
7. Borrowing from or lending to employees, customers or suppliers.
8. Acquiring real estate of interest to the Company.
9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.
10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.
11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions, which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

## JURAT WITH AFFIANT STATEMENT

State of CALIFORNIA } ss.  
County of ALAMEDA }

- See Attached Document (Notary to cross out lines 1-8 below)  
 See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 I, William J. Hoover, hereby swear or  
2 affirm that the attached reproduction  
3 of the Confidential Information and  
4 Invention Assignment Agreement signed  
5 by Jerome Banks is a true, correct  
6 and complete photocopy of a document  
7 in my possession.

WJ Hoover  
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any).

Subscribed and sworn to (or affirmed) before

me this 15 day of SEPTEMBER,

Month

2004, by

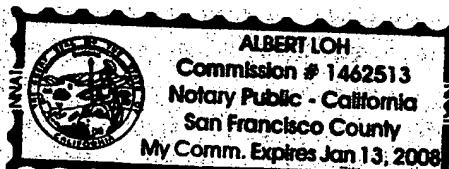
Year  
WILLIAM J. HOOVER

Name of Signer(s)

(2)

Name of Signer(s)

Signature of Notary Public



Place Notary Seal Above

### OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

#### Further Description of Any Attached Document

CONFIDENTIALITY 2  
ASSIGNMENT

Title or Type of Document: CONFIDENTIALITY 2  
ASSIGNMENT

Document Date:    Number of Pages: 10

Signer(s) Other Than Named Above: JEROME BANKS

RIGHT THUMPRINT  
OF SIGNER #1  
Top of thumb here

RIGHT THUMPRINT  
OF SIGNER #2  
Top of thumb here

## CYANEA SYSTEMS CORP.

### CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of my employment with Cyanea Systems Corp., its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company,

JEROME BANKS (employee name) agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice.

2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company to fulfill my employment obligations, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I conceive, develop or reduce to practice during my employment that I believe meet the criteria in California Labor Code Section 2870 and not otherwise disclosed on Exhibit A.

4. **Conflicting Employment.** I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. **Returning Company Documents.** I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit C.

6. **Notification of New Employer.** In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees.** I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit D hereto.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration.**

(a) Except as provided in Section 10(d) below, the Company and I agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration unless otherwise required by law, to be held in [San Mateo, California] in accordance with the National Rules for the Resolution of Employment Disputes then in effect of the American Arbitration Association (the "Rules"). The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) shall apply California law to the merits of any dispute or claim, without reference to rules of conflicts of law. I hereby consent to the personal jurisdiction of the state and federal courts located in California for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

(d) I understand that nothing in section 10 modifies my at-will status. Either the Company or I can terminate the employment relationship at any time, with or without cause.

(e) I HAVE READ AND UNDERSTAND THIS SECTION 10, WHICH DISCUSSES ARBITRATION. I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE, EXCEPT AS PROVIDED IN SECTION 10(d), TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, UNLESS OTHERWISE REQUIRED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF MY RELATIONSHIP WITH THE COMPANY.

11. **General Provisions.**

(a) **Governing Law.** This Agreement will be governed by the internal substantive laws, but not the choice of law rules, of the State of California.

(b) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged.

(c) **Severability.** If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) **Successors and Assigns.** This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

CYANEA SYSTEMS CORP.

By C. Moore

Title: VP - Finance & Operations

EMPLOYEE:

Name C. Moore

**EXHIBIT A**  
**LIST OF PRIOR INVENTIONS**  
**AND ORIGINAL WORKS OF AUTHORSHIP**

Title	Date	Identifying Number or Brief Description
-------	------	--

No inventions or improvements

Additional Sheets Attached

Signature of Employee: 

Print Name of Employee: JEROME BANKS

Date: \_\_\_\_\_

**EXHIBIT B**

**CALIFORNIA LABOR CODE SECTION 2870**

**EMPLOYMENT AGREEMENTS; ASSIGNMENT OF RIGHTS**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

- (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.
- (2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

## **EXHIBIT C**

### **TERMINATION CERTIFICATION**

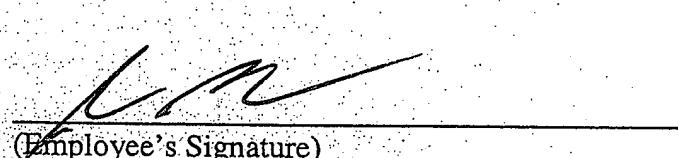
This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to the Company.

I further certify that I have complied with all the terms of the Company's Employment Confidential Information and Invention Assignment and Arbitration Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employment, Confidential Information and Invention Assignment and Arbitration Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Date: 3/19/2004



(Employee's Signature)

JEROME BANKS  
(Type/Print Employee's Name)

**EXHIBIT C**

**TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to the Company.

I further certify that I have complied with all the terms of the Company's Employment Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employment, Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Date: \_\_\_\_\_

---

(Employee's Signature)

---

(Type/Print Employee's Name)

## EXHIBIT D

### **CONFLICT OF INTEREST GUIDELINES**

It is the policy of the Company to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities, which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations, which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The Employment, Confidential Information and Invention Assignment Agreement elaborates on this principle and is a binding agreement.)
2. Accepting or offering substantial gifts, excessive entertainment, favors or payments, which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.
3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.
4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.
5. Initiating or approving any form of personal or social harassment of employees.
6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.
7. Borrowing from or lending to employees, customers or suppliers.
8. Acquiring real estate of interest to the Company.
9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.
10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.
11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions, which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

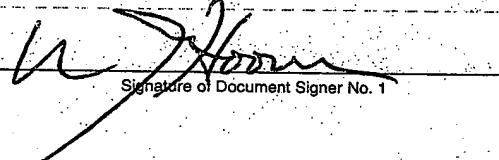
Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

## JURAT WITH AFFIANT STATEMENT

State of CALIFORNIA } ss.  
County of ALAMEDA }

- See Attached Document (Notary to cross out lines 1-8 below)  
 See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

I, William J. Hoover, hereby swear or affirm  
that the attached reproduction of the  
Confidential Information and Invention  
Assignment Agreement signed by Chris  
Zychowski is a true, correct and complete  
photocopy of a document in my possession.

  
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

Subscribed and sworn to (or affirmed) before

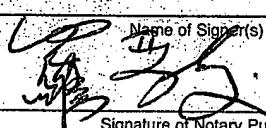
me this 15 day of SEPTEMBER,  
Date Month

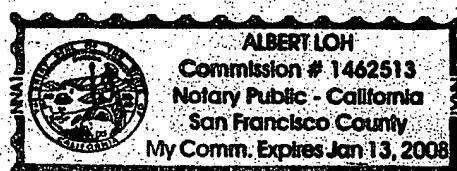
2004, by

Year  
(1) WILLIAM J. HOOVER

Name of Signer(s)

(2)

  
Signature of Notary Public



Place Notary Seal Above

### OPTIONAL

Though the information below is not required by law, it may prove  
valuable to persons relying on the document and could prevent  
fraudulent removal and reattachment of this form to another document.

### Further Description of Any Attached Document

Title or Type of Document: CONFIDENTIALITY & ASSIGNMENT

Document Date:   Number of Pages: 10

Signer(s) Other Than Named Above: CHRIS ZYCHOWSKI

RIGHT THUMBRPRINT  
OF SIGNER #1:  
Top of thumb here.

RIGHT THUMBRPRINT  
OF SIGNER #2:  
Top of thumb here

## CYANEA SYSTEMS CORP.

### CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of my employment with Cyanea Systems Corp., its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company,

Chris Zychouski (employee name) agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice.

#### 2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company to fulfill my employment obligations, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. **Inventions.**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign and shall assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protected by copyright are "works made for hire," as that term is defined in the United States Copyright Act. I shall not incorporate any invention, original work of authorship, development, concept, improvement, or trade secret owned, in whole or in part, by any third party, into any Invention without the Company's prior written permission.

(c) **Inventions Assigned to the United States.** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) **Patent and Copyright Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the

sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I conceive, develop or reduce to practice during my employment that I believe meet the criteria in California Labor Code Section 2870 and not otherwise disclosed on Exhibit A.

4. **Conflicting Employment.** I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. **Returning Company Documents.** I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit C.

6. **Notification of New Employer.** In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees.** I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit D hereto.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration.**

(a) Except as provided in Section 10(d) below, the Company and I agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration unless otherwise required by law, to be held in [San Mateo, California] in accordance with the National Rules for the Resolution of Employment Disputes then in effect of the American Arbitration Association (the "Rules"). The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) shall apply California law to the merits of any dispute or claim, without reference to rules of conflicts of law. I hereby consent to the personal jurisdiction of the state and federal courts located in California for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

(d) I understand that nothing in section 10 modifies my at-will status. Either the Company or I can terminate the employment relationship at any time, with or without cause.

(e) I HAVE READ AND UNDERSTAND THIS SECTION 10, WHICH DISCUSSES ARBITRATION. I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE, EXCEPT AS PROVIDED IN SECTION 10(d), TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, UNLESS OTHERWISE REQUIRED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF MY RELATIONSHIP WITH THE COMPANY.

11. **General Provisions.**

(a) **Governing Law.** This Agreement will be governed by the internal substantive laws, but not the choice of law rules, of the State of California.

(b) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged.

(c) **Severability.** If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) **Successors and Assigns.** This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

**CYANEA SYSTEMS CORP.**

By:

Title:

EMPLOYEE:

Name

**EXHIBIT A**

**LIST OF PRIOR INVENTIONS**

**AND ORIGINAL WORKS OF AUTHORSHIP**

<u>Title</u>	<u>Date</u>	<u>Identifying Number or Brief Description</u>
--------------	-------------	--

No inventions or improvements

Additional Sheets Attached

Signature of Employee: \_\_\_\_\_

Print Name of Employee: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**

**CALIFORNIA LABOR CODE SECTION 2870**

**EMPLOYMENT AGREEMENTS; ASSIGNMENT OF RIGHTS**

“(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer’s equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer’s business, or actual or demonstrably anticipated research or development of the employer.

(2) Result from any work performed by the employee for the employer.

“(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.”

**EXHIBIT C**

**TERMINATION CERTIFICATION**

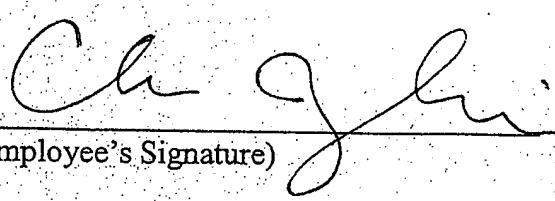
This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to the Company.

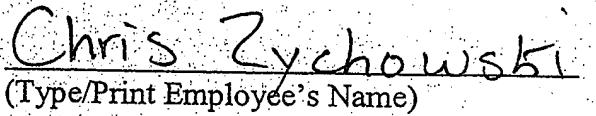
I further certify that I have complied with all the terms of the Company's Employment Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employment, Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Date: 6/23/03

  
(Employee's Signature)

  
(Type/Print Employee's Name)

## EXHIBIT D

### **CONFLICT OF INTEREST GUIDELINES**

It is the policy of the Company to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities, which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations, which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

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2. Accepting or offering substantial gifts, excessive entertainment, favors or payments, which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.
3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.
4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.
5. Initiating or approving any form of personal or social harassment of employees.
6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.
7. Borrowing from or lending to employees, customers or suppliers.
8. Acquiring real estate of interest to the Company.
9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.
10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.
11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions, which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

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